IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3985 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JALAVAD TRADING COMPANY

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3985 of 1999

MR TUSHAR MEHTA for Petitioner No. 1

GOVERNMENT PLEADER for Respondents No. 1-4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 18/03/2002

ORAL JUDGEMENT

With the consent of the parties matter is taken up for final hearing today.

2. This petition is decided on the main contention that before cancellation of licence the Mamalatdar has not heard the petitioner. It is well settled principle of law that once the licence is granted to the petitioner without hearing the petitioner, the licence could not have been cancelled by the Mamalatdar. The petitioner has made averment in the petition that it has not been given opportunity of hearing. The reply affidavit is filed by one Shri A.B.Gor, Dist.Supply Officer Surendranagar and in the said affidavit there is no specific denial whether the petitioner was heard or not. Even in the order dated 1.6.1999 there is no reference to the hearing being given to the petitioner. Therefore, the order dated 1.6.1999 passed by the Mamalatdar Wadhwan taluka is quashed only on the ground that the same is in breach of principles of natural justice and that the petitioner has not been given any opportunity of being heard.

3. It is hereby directed that the Mamalatdar, Wadhwan taluka will give opportunity of hearing to the petitioner and will decide the matter afresh within 15 days from the date of receipt of this order. It is clarified that all the contentions are kept open and it will be for the petitioner to raise all the contentions before the Mamalatdar including that the licence is not required to be cancelled and the Mamalatdar shall decide the same independently in accordance with law. It will also be open for the petitioner to contend before the Mamalatdar about the revised policy of the State Govt, if any, and also the orders of the Division Bench of this court and the Mamalatdar shall consider the same in accordance with law.

4. It is needless to state that when this Court has given direction to consider the matter afresh, the Mamalatdar shall decide the same independently without being influenced by the earlier orders made by him. Until the Mamalatdar decides the issue regarding cancellation of licence as directed above within 15 days, interim relief granted earlier by this court which is extended, from time to time, shall remain in operation. Rule is made absolute to the aforesaid extent with no order as to costs.

18.3.2002 (JAYANT PATEL,J)